

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MALCHI I. YAHTUES,

Plaintiff,

v.

CAROL A. MICI, et al.

Defendants.

**Civil Action No.
20-10994-FDS**

ORDER

SAYLOR, C.J.

On May 22, 2020, *pro se* litigant Malachi I. Yahtues, who is incarcerated at Old Colony Correctional Center, filed a civil complaint in which he alleges that he is being denied meaningful access to the courts. According to Yahtues, he is pursuing a collateral challenge to a New Hampshire state conviction. He alleges that prison conditions, such as inadequate access to the law library and to his trial documents stored in that library, lack of access to New Hampshire case law, and slowed processing of mail due to COVID-19 restrictions, are interfering with his ability to litigate this matter. He also filed a motion for a temporary restraining order and a preliminary injunction, a memorandum and declaration in support thereof, and a motion for leave to proceed *in forma pauperis*.

Since the filing of the action on May 22, 2020, Yahtues has filed two documents indicating that he has been able to resolve his concerns about access to the courts without judicial action. On May 26, 2020, Yahtues informed the Court that he had successfully used the prison grievance process to access the law library for one hour per day. (ECF 10). Two weeks later, he filed a notice that he was withdrawing his motion for injunctive relief. (ECF 12) (“Notice of

Withdrawal”). He indicates that he (1) continues to have access to the law library one hour per day; (2) has been able to have legal documents notarized; (3) is able to access out-of-state case law; (4) has adequate access to his personal legal documents; and (5) has been assured by the mailroom officer that his legal documents will receive prompt attention.

While Yahtues does not explicitly state in the June 8, 2020 Notice of Withdrawal that he is voluntarily dismissing the action, his statements clearly indicate that he does not wish to pursue this lawsuit: “At this juncture, [Yahtues] wishes not to waste any judicial resources, nor does he want to receive a strike against his litigation efforts in the event he (plaintiff) may have to prosecute any claims in the future.” (ECF 12 ¶ 7). He also “fears the court may request some form of payment for service of summons and plaintiff needs ‘all his funds’” for fees associated with his challenge of the New Hampshire state conviction. (*Id.* ¶ 6).

Under the circumstances, the Court construes the Notice of Withdrawal as a notice of voluntarily dismissal under Rule 41(a)(1)(A)(i) of the Federal Rules of Civil Procedure. This dismissal is without prejudice. The motion for leave to proceed *in forma pauperis* shall be terminated as moot and no filing fee shall be assessed. The clerk is directed to close this action.

So Ordered.

/s/ F. Dennis Saylor IV
F. Dennis Saylor IV
Chief Judge, United States District Court

Dated: August 12, 2020